

Decision **DRAFT DECISION OF ALJ TERKEURST (Mailed 4/6/2004)**

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the  
Commission's Own Motion to Determine  
Whether Baseline Allowances for Residential  
Usage of Gas and Electricity Should Be Revised.

Rulemaking 01-05-047  
(Filed May 24, 2001)

**OPINION GRANTING PETITION TO MODIFY DECISION 04-02-057**

**I. Summary**

As requested by PacifiCorp, we modify Decision (D.) 04-02-057 to exempt PacifiCorp from the requirements of Ordering Paragraphs (OP) 8, 9, 10, and 13 of that order regarding the treatment of seasonal residences in the baseline program.

**II. PacifiCorp Petition for Modification**

On March 8, 2004, PacifiCorp filed a petition to modify D.04-02-057, the Final Opinion on Phase 2 Issues in this rulemaking. No party filed a response to PacifiCorp's petition.

Among other holdings in D.04-02-057, the Commission adopted a policy that the usage of seasonal residences should be excluded from baseline calculations in climate zones where its inclusion would cause a material reduction in baseline quantities (OP 8). We required that each utility maintain a reasonable method for determining the percentage of customers who are seasonal residents in each climate zone (OP 9), and that PacifiCorp and other

utilities file compliance advice letters to implement the adopted exclusion of seasonal residences from baseline calculations (OP 10). We also required that the issue of whether baseline quantities should be withheld from seasonal residences be assessed separately for each utility in its general rate proceeding or other appropriate proceeding (OP 13).

PacifiCorp asks for an exemption from these requirements on the basis that the adopted treatment of seasonal customers would have a *de minimis* impact on its customers. It also asserts that the cost of gathering data on a properly sized, statistically valid sampling of seasonal customers in order to comply with D.04-02-057 would exceed any benefit that might accrue from revised baseline allowances, if any revisions were to occur.

### III. Discussion

PacifiCorp has made a convincing showing that it is not subject to the residential rate design problems addressed in Phase 2 of this proceeding. While Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company have four- or five-tier residential rates, PacifiCorp's residential rates have two tiers, baseline and non-baseline. While the three major electric utilities have residential rates that differ across their tiers by as much as 13.1 cents per kilowatt hour (kWh),<sup>1</sup> PacifiCorp's baseline and non-baseline rates differ by only 1.3 cents per kWh.<sup>2</sup> As PacifiCorp notes, its highest residential rate (its non-baseline rate) is lower than the lowest residential rates (the baseline rate) of the three major California electric utilities.

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<sup>1</sup> D.04-02-057, *mimeo.*, at 50.

<sup>2</sup> PacifiCorp's tariff indicates that its residential baseline rate is 7.575 cents per kWh and its non-baseline rate is 8.881 cents per kWh.

PacifiCorp explains that it does not know how many of its 34,000 residential customers are seasonal customers or the usage patterns of such customers. However, it is clear that, due to the small rate difference between PacifiCorp's two residential tiers, exclusion of the usage of seasonal customers from its baseline calculations would have a *de minimis* impact on the bills of its permanent customers. We do not doubt PacifiCorp's assertion that the cost of gathering statistically valid data on seasonal customers would exceed any benefit that might accrue from revised baseline allowances. For these reasons, we find that PacifiCorp's request for an exemption from OPs 8, 9, 10, and 13 of D.04-02-057 should be granted.

#### **IV. Comments on Draft Decision**

The draft decision of the assigned administrative law judge was mailed to the parties in accordance with Pub. Util. Code § 311(g)((2) and Rule 77.7(f)(2) of the Rules of Practice and Procedure. Pursuant to Pub. Util. Code § 311(g)(2), the 30-day period for comments on the draft decision was reduced to 10 days because the decision regards an uncontested matter and grants the relief requested. Without an exemption or extension, OP 10 of D.04-02-057 would require PacifiCorp to file a compliance advice letter by April 26, 2004 to implement the exclusion of seasonal residences from baseline calculations. Since no party contested PacifiCorp's request, it was reasonable to reduce the comment period to 10 days so that the Commission could consider this matter during its regularly scheduled meeting on April 22, 2004. No party filed comments on the draft decision.

#### **V. Assignment of Proceeding**

Geoffrey F. Brown is the Assigned Commissioner and Charlotte F. TerKeurst is the assigned ALJ in this proceeding.

**Findings of Fact**

1. PacifiCorp filed a petition to modify D.04-02-057 on March 8, 2004. No party filed a response to PacifiCorp's petition.
2. PacifiCorp's residential rate design has two tiers, baseline and non-baseline.
3. PacifiCorp's residential baseline and non-baseline rates differ by about 1.3 cents per kWh.
4. PacifiCorp has no data to determine the percentage of seasonal customers in its service territory and no data on the usage characteristics of seasonal customers.
5. Due to the small price difference between PacifiCorp's two residential tiers, exclusion of the usage of seasonal customers from its baseline calculations would have a *de minimis* impact on the bills of its permanent customers.
6. It is likely that the cost of gathering statistically valid data on PacifiCorp's seasonal customers would exceed any benefit that might accrue from revised baseline allowance, if any revisions were to occur.
7. Because exclusion of the usage of seasonal customers from PacifiCorp's baseline calculations would have at most a *de minimis* impact on the electricity bills of its permanent residential customers and because of the relatively high cost of compliance compared to potential customer benefit, it is reasonable to exempt PacifiCorp from OPs 8, 9, 10, and 13 of D.04-02-057.

**Conclusions of Law**

1. PacifiCorp's petition to modify D.04-02-057 should be granted.
2. D.04-02-057 should be modified to exempt PacifiCorp from its OPs 8, 9, 10, and 13.

3. This order should be effective today, so that the modifications adopted herein may be implemented expeditiously.

### **O R D E R**

#### **IT IS ORDERED** that:

1. The Petition of PacifiCorp to Modify Decision (D.) 04-02-057 is granted.

2. Ordering Paragraphs 8, 9, 10, and 13 of D.04-02-057 are modified to read as follows:

8. Each electric or gas utility except PacifiCorp shall exclude seasonal residences from baseline calculations in climate zones where their inclusion would cause a reduction in baseline quantities of 3% or more, with this materiality threshold applied separately for electricity and for gas usage, for the summer and winter seasons, and for each climate zone.
9. Each electric or gas utility except PacifiCorp shall maintain a reasonable method for determining the percentage of customers who are seasonal residents in each climate zone, and may gather such information through its Residential Appliance Saturation Surveys or similar customer surveys.
10. Each electric or gas utility, except Mountain Utilities and PacifiCorp, shall file and serve a compliance advice letter to implement the adopted exclusion of seasonal residences from baseline calculations. Each utility shall file its advice letter within 60 days of the effective date of this order except that SDG&E shall file its advice letter as soon as practical after it receives pending Residential Appliance Saturation Survey results. Each utility shall explain and document in its advice letter whether the adopted 3% materiality threshold is met in each climate zone during each season. If the adopted materiality threshold is met, the advice letter shall include any tariff modifications needed to adjust baseline quantities appropriately, to be effective at the beginning of the next baseline period. Each utility may use PG&E's proxy methodology and shall explain the

methodology it uses to exclude the usage of seasonal residences from baseline calculations, with supporting documentation to allow review of the reasonableness of the methodology. The advice letters shall become effective after appropriate review by Energy Division.

13. Each electric or gas utility except PacifiCorp shall submit in its general rate proceeding or other appropriate proceeding, including pending proceedings if feasible without delay of the proceedings, an assessment of whether it should deny baseline quantities to seasonal residences. Its assessment shall include the proportion of seasonal residences in each climate zone, the effect a baseline exclusion has or would have on permanent residents' bills, and actual or projected costs of administering an equitable program of withholding baseline quantities from seasonal residences. The utility shall describe an appropriate and equitable method for identifying seasonal residences for purposes of withholding baseline quantities, and shall assess an alternative approach in which separate, lower baseline allowances would be provided to seasonal residences. Mountain Utility shall include provisions to implement the adopted exclusion of seasonal residences from baseline calculations.
3. This proceeding is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.